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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: ANAND C. BURMAN, et al .

Serial No.: 09/630,333

Group No.: 1653

Filed: JULY 31, 2000

Examiner.: F. MOEZIE

For: BOMBESIN ANALOGS FOR TREATMENT OF CANCER

Attorney Docket No.: U 012799-1

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

RESPONSE TO OFFICIAL ACTION MAILED AUGUST 31, 2001

Reconsideration and further examination is respectfully requested in view of the following remarks.

The Examiner has issued a Restriction Requirement requiring restriction between the claims of:

Group I: Claims 1-11 drawn to a peptide;

Group II: Claims 12 and 13 drawn to a composition and a method of treating cancer; and

Group III: Claims 15-20 drawn to a solid phase synthesis of peptides.

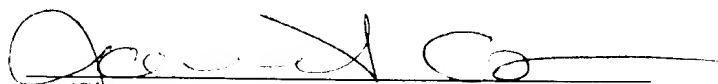
CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231

JANET I. CORD

Type or print name of person mailing paper)

Date: September 28, 2001


(Signature of person mailing paper)

Applicants respectfully traverse this rejection. Applicants submit that the Restriction Requirement should be reformulated as:

- Group I: Claims 1-12 drawn to a peptide and a composition;
- Group II: Claims 13 and 14 directed to a method of treatment of cancer; and
- Group III: Claims 15-20 drawn to solid phase synthesis of peptides.

Applicants submit that Claims 1-14 should be examined in this application.

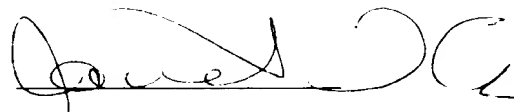
Applicants submit that the claims to the peptides and composition containing such peptides should be examined in the same application. If the peptides are found to be novel and non-obvious a composition containing such novel and non-obvious peptides would also be novel and non-obvious. In addition, applicants believe that they are entitled to have examined in the same application method of treatment using said peptides. A search of the art for the peptides would also include a search of the art of a method for using the peptides to treat cancer. Therefore, Claims 1-14 should be examined in this application. In the event that the Examiner does not agree to this, Claims 1-12 should be examined in this application.

Applicant's preserve their rights to file one or more divisional applications directed to non-elected claims.

As to the species election applicants elect the species of SEQ ID NO.: 11 described in Claim 10. The other claims related to this claim are Claim 1 and Claims 12-20.

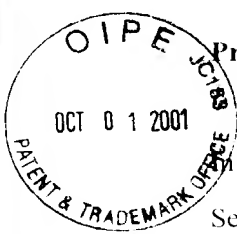
Accordingly the present application is in condition for allowance and favorable consideration is respectfully requested.

Respectfully submitted,



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1653



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AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application.

STATUS

2. Applicant is

- ☐ a small entity. A statement:
☐ is attached.
☐ was already filed.
☒ other than a small entity.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

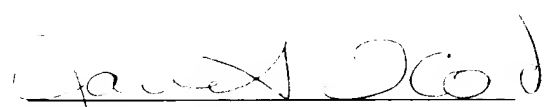
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- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

- ☐ transmitted by facsimile to the Patent and Trademark Office.


Signature

Date: September 28, 2001

Janet I. Cord
(type or print name of person certifying)

EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).

NOTE: See 37 C.F.R. 1.645 for extensions of time in interference proceedings, and 37 C.F.R. 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

(complete (a) or (b), as applicable)

(a) ☐ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

	Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/>	one month	\$ 110.00	\$ 55.00
<input type="checkbox"/>	two months	\$ 390.00	\$ 195.00
<input type="checkbox"/>	three months	\$ 890.00	\$ 445.00
<input type="checkbox"/>	four months	\$ 1,390.00	\$ 695.00

Fee: \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for _____ months has already been secured. The fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

(b) ☒ Applicant believes that no extension of term is required. However, this is a conditional petition being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY		
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee
Total	*	Minus	**	=	x \$ 9 =	\$		x \$18 =	\$
Indep.	*	Minus	***	=	x \$40 =	\$		x \$80 =	\$
[] First Presentation of Multiple Dependent Claim					+ \$135 =	\$		+ \$270 =	\$
					Total Addit. Fee	\$	OR	Total Addit. Fee	\$

* If the entry in Col. 1 is less than the entry in Col. 2, write "O" in Col. 3.

** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: "After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c) ☒ No additional fee for claims is required.

OR

(d) ☐ Total additional fee for claims required \$ _____.

FEE PAYMENT

5. ☐ Attached is a check in the sum of \$ _____.
- ☐ Charge Account No. 12-0425 the sum of \$ _____.
- A duplicate of this transmittal is attached.

FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. ☒ If any additional extension and/or fee is required, charge Account No. 12-0425.

AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 12-0425


SIGNATURE OF PRACTITIONER

Reg. No. 33,778

JANET L. CORD

(type or print name of practitioner)

Tel. No. (212)708-1935

LADAS & PARRY

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